

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

MICHAEL A. GRAVES, SR.

PLAINTIFF

V.

Civil No. 2:16-cv-02187-PKH-MEF

NANCY A. BERRYHILL, Commissioner
Social Security Administration

DEFENDANT

JUDGMENT

For reasons stated in a memorandum opinion of this date, the Court hereby reverses the decision of the Commissioner, and remands this case for further consideration pursuant to sentence four of 42 U.S.C. § 405(g).

The Court does not find substantial evidence to support the ALJ's decision in this case. Accordingly, on remand, the ALJ is directed to contact Plaintiff's treating physicians, Drs. Santos and Patterson, requesting that said physicians review Plaintiff's medical records; complete a physical RFC assessment regarding Plaintiff's functional capabilities; and, to state the objective basis for the assessment so that an informed decision can be made by the ALJ regarding Plaintiff's ability to perform work activities on a sustained basis. The assessment should also specifically address how long Plaintiff can stand and walk during an eight-hour workday, and whether he should avoid exposure to dust, fumes, smoke, or temperature extremes altogether.

The ALJ is also directed to order a consultative examination from a neurologist or rheumatologist, and the consultative examiner should be asked to review the medical evidence of record, perform examinations and appropriate testing needed to properly diagnose Plaintiff's chronic pain, and complete a physical RFC assessment of Plaintiff's abilities to perform work related activities. The ALJ should then reconsider the Plaintiff's physical RFC in light of this additional evidence.

If Plaintiff wishes to request an award of attorney's fees and costs under the Equal Access to Justice Act (EAJA) 28 U.S.C. § 2412, an application may be filed up until 30 days after the judgment becomes "not appealable," i.e., 30 days after the 60-day time for appeal has ended. *See Shalala v. Schaefer*, 509 U.S. 292, 296, 113 S.Ct. 2625 (1993); 28 U.S.C. §§ 2412(d)(1)(B),(d)(2)(G).

IT IS SO ORDERED AND ADJUDGED this 14th day of February, 2018.

P. K. Holmes, III

P. K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE